

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

ANDREW R. COLVIN

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Criminal No. *20-2* J

**INDICTMENT MEMORANDUM**

AND NOW comes the United States of America, by its attorneys, Scott W. Brady, United States Attorney for the Western District of Pennsylvania, and Maureen Sheehan-Balchon, Assistant United States Attorney for said district, and submits the following Indictment Memorandum to the Court:

I. THE INDICTMENT

A Federal Grand Jury returned a two-count Indictment against the above-named defendant for alleged violations of federal law:

| <u>COUNT</u> | <u>OFFENSE/DATE</u>   | <u>TITLE/SECTION</u>  |
|--------------|---|---|
| 1            | Possession with intent to distribute a quantity of marijuana, a Schedule I controlled substance on or about October 7, 2019.  | 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(D)   |
| 2            | Possession with intent to distribute one (1) gram or more of lysergic acid diethylamide (LSD), a Schedule I controlled substance, and quantities of: marijuana, a Schedule I controlled substance; cocaine, a Schedule II controlled substance; methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance; ketamine, a Schedule III controlled substance; and tetrahydrocannabinol (THC), | 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)(v), 841(b)(1)(C), 841(b)(1)(D), and 841(b)(1)(E) |

a Schedule I controlled substance on or about October 9, 2019.

## II. ELEMENTS OF THE OFFENSES

### A. As to Count One:

In order for the crime of possession with intent to distribute a quantity of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), to be established, the government must prove all of the following essential elements, beyond a reasonable doubt:

1. That on or about the date set forth in the Indictment, the defendant possessed with intent to distribute the controlled substance charged in the Indictment.

United States v. Lartey, 716 F.2d 955, 967 (2d Cir. 1983); United States v. Wright, 593 F.2d 105, 107-108 (9th Cir. 1979); United States v. Tighe, 551 F.2d 18, 21 (3d Cir.) 434 U.S. 823 (1977).

2. That the defendant did so knowingly and intentionally.

United States v. Ashley, 26 F.3d 1008 (10th Cir. 1994); United States v. Kairouz, 751 F.2d 467, 469 (1st Cir. 1985); United States v. Jewell, 532 F.2d 697, 699-700 (9th Cir. 1976).

3. That marijuana is a Schedule I controlled substance, pursuant to Title 21, United States Code, Section 812(c), Schedule I(c)(10).

### B. As to Count Two:

In order for the crime of possession with intent to distribute one (1) gram or more of lysergic acid diethylamide (LSD), a Schedule I controlled substance, and quantities of: marijuana, a Schedule I controlled substance; cocaine, a Schedule II controlled substance; methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance; ketamine, a Schedule III controlled substance; and tetrahydrocannabinol (THC), a Schedule I controlled

substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B)(v), 841(b)(1)(C), 841(b)(1)(D), and 841(b)(1)(E), to be established, the government must prove all of the following essential elements, beyond a reasonable doubt:

1. That on or about the date set forth in the Indictment, the defendant possessed with intent to distribute the controlled substance(s) charged in the Indictment.

- United States v. Lartey, 716 F.2d 955, 967 (2d Cir. 1983); United States v. Wright, 593 F.2d 105, 107-108 (9th Cir. 1979); United States v. Tighe, 551 F.2d 18, 21 (3d Cir.) 434 U.S. 823 (1977).

2. That the defendant did so knowingly and intentionally.

United States v. Ashley, 26 F.3d 1008 (10th Cir. 1994);  
United States v. Kairouz, 751 F.2d 467, 469 (1st Cir. 1985);  
United States v. Jewell, 532 F.2d 697, 699-700 (9th Cir. 1976).

3. That lysergic acid diethylamide (LSD) is a Schedule I controlled substance, pursuant to Title 21, United States Code, Section 812(c), Schedule I(c)(9), and that the amount was one gram or more.

4. That marijuana is a Schedule I controlled substance, pursuant to Title 21, United States Code, Section 812(c), Schedule I(c)(10).

5. That cocaine is a Schedule II controlled substance, pursuant to Title 21, United States Code, Section 812(c), Schedule II(a)(4).

6. That methylenedioxymethamphetamine (MDMA) is a Schedule I controlled substance, pursuant to Title 21, United States Code, Section 812(c), Schedule I(c)(1).

7. That ketamine is a Schedule III controlled substance.

8. That tetrahydrocannabinol (THC) is a Schedule I controlled substance, pursuant to Title 21, United States Code, Section 812(c), Schedule I(c)(17).

### III. PENALTIES

A. As to Count One: Possession with intent to distribute a quantity of marijuana (21 U.S.C. §§ 841(a)(1) and 841(b)(1)(D)):

1. A term of imprisonment of not more than five (5) years.
2. A fine not to exceed \$250,000.
3. A term of supervised release of at least two (2) years.

For a second or subsequent felony drug conviction that is final, whether federal, state, or foreign:

1. A term of imprisonment of not more than ten (10) years.
2. A fine not to exceed \$500,000.
3. A term of supervised release of at least four (4) years.

B. As to Count Two: Possession with intent to distribute one (1) gram or more of lysergic acid diethylamide (LSD), and quantities of: marijuana, cocaine, methylenedioxymethamphetamine, ketamine, and tetrahydrocannabinol (21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)(v), 841(b)(1)(C), 841(b)(1)(D), and 841(b)(1)(E)):

1. A term of imprisonment of not less than five (5) years to a maximum of forty (40) years.
2. A fine not to exceed \$5,000,000.
3. A term of supervised release of at least four (4) years.

For a second or subsequent felony drug conviction that is final, whether federal, state, or foreign:

1. A term of imprisonment of not less than ten (10) years to life.
2. A fine not to exceed \$8,000,000.
3. A term of supervised release of at least eight (8) years.

IV. MANDATORY SPECIAL ASSESSMENT

A mandatory special assessment of \$100 must be imposed for each count in the Indictment for which the defendant is convicted, pursuant to 18 U.S.C. § 3013, as the offenses occurred after April 24, 1996.

V. RESTITUTION


Not applicable in this case.

VI. FORFEITURE

As set forth in the Indictment, forfeiture may be applicable in this case.

Respectfully submitted,

SCOTT W. BRADY  
United States Attorney

  
MAUREEN SHEEHAN-BALCHON  
Assistant U.S. Attorney  
PA ID No. 78059